IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Writ Petition No. 601 of 2006 (M/B)

1. Smt. Sudha Pandit W/o Sri Subodh Pandit,
   R/o 445, Devidass Khatauli,
   District Muzaffarnagar,
   Proprietor M/s Chandrika Industries.
2. Sushil Kumar Sharma S/o Sri Shiv Kumar Sharma,
   R/o 479 Devidas Khatauli, P.S. Khatauli,
   District Muzaffarnagar,
   Proprietor M/s Balaji Oil Company.
3. Nishant Kumar Sharma S/o Sri B.K. Sharma,
   R/o H. No. 84 Kanoon Goyan Khatauli,
   District Muzaffarnagar,
   Proprietor
   M/s New M.P.S. Speakers and
   Transformers core. …. Petitioners

Versus

1. Superintendent of Police,
   C.B.I. S.P.?E. Dehradun.
4. Sr. Manager, Punjab National Bank,
   Branch Manglaur, P.S. Manglaur,
   District Haridwar, Uttaranchal. ….. Respondents

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Mr. S.S. Negi, Advocate for the petitioners.
Mr. U.K. Uniyal, Senior Counsel with Mr. Shobhit Saharia, Advocate for respondent No. 1.
Mr. I.P. Kohli, Advocate for respondent No. 4.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. S.S. Negi, Advocate for the petitioners.

Mr. U.K. Uniyal, Senior Counsel with Mr. Shobhit Saharia, Advocate for respondent No. 1.

Mr. I.P. Kohli, Advocate for respondent No. 4.

They are heard.

2. The petitioners have filed this writ petition for the following reliefs:

"I. Issue a writ, order or direction in the nature of certiorari to quash the F.I.R. No. 5 dated 13.04.2006 under/sections 120-B, 420, 467, 468, 471 I.P.C. against the petitioners only alongwith under sections 13(1) (d) r/w 13(2) of the Provisions of corruption Act 1988 lodged by respondent no. 4 after 7 months belated to respondent no. 1 on mere suspicion while no prima facie case is made out against the petitioners and there is no direction evidence against the petitioners (Annexure no. 1 to this writ petition).

II. Issue a writ, order or direction in the nature of the mandamus commanding the respondents not to arrest the petitioners who are apprehending of their arrest from the respondents who are bent upon to arrest the petitioners who will use 3rd rate methods against the petitioners during the pendency of this writ petition.

III. Issue an add interim relief in the nature of mandamus by restraining the respondents for arresting the petitioners during the pendency of this writ petition.

IV. Issue a suitable writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case.

V. Award the cost of the Petition to the petitioner from the respondents."

3. The petitioners are seeking quashing of the First Information Report and the case registered against them for the alleged commission of the offences punishable under Section 420, 467, 468 and 471 read with 120-B of the I.P.C.

4. On the report of one Rakesh Sharma, Senior Manager, Punjab National Bank, Manglaur, District Haridwar, a case was registered at Crime No. RC0072006A0008 of 2006 against as many as nine persons, including the three petitioners, for the alleged commission of the offences punishable under Sections 420, 467, 468 and 471 of the I.P.C. and Section 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988.

5. According to the First Information Report, the accused persons were alleged to have obtained loan from Manglaur Branch of Punjab National Bank in the names of fictitious / non-existing companies and thereby, cheated Punjab National Bank to the tune of Rs. 1,34,00,000/- (Rupees One Crore and Thirty Four Lakhs Only).

6. Petitioner No. 1 Smt. Sudha Pandit projected herself as proprietor of M/s Chandrika Industries; petitioner No. 2 Sushil Kumar Sharma of M/s Balaji Oil Company; and petitioner No. 3 Nishand Kumar Sharma of M/s New M.P.S. Speakers and Transformers Core.

7. On due consideration of the submissions of the learned counsel for the parties, the contents of the First Information Report lodged against the accused persons; and the averments in the writ petition, counter affidavit and the rejoinder affidavit, we are of the opinion that no case warranting quashing of the First Information Report and the case registered against the petitioners, in view of the dictum of the Apex Court in the case of **T. Vengama Naidu Vs. T. Dora Swamy Naidu & others** reported in **JT 2007 (4) SC 240,** is made out.

8. We are refraining from commenting on the merits of the case lest it may adversely affect the petitioners' case at the trial, which the petitioners are yet to face.

9. The writ petition, therefore, is liable to be dismissed and is hereby dismissed.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C. J.)**

01.05.2007 01.05.2007

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